

FB Exhibit B

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC-JSC

**STIPULATION AND [PROPOSED]
ORDER REGARDING DISCOVERY
MEDIATOR¹**

¹ This is the stipulation Facebook sent Plaintiffs on March 27. The only change is that one paragraph has been moved up.

By and through their undersigned counsel, the parties hereby stipulate and agree as follows:

1. Whereas, on March 4, 2021, the Court ordered the parties to “hire a discovery mediator.” Trans. of 3/4/2021 Hearing at 14:5-12 (“March 4 Trans.”); *see also* Dkt. 632.
2. Whereas, consistent with this instruction, the parties agreed to retain the Honorable Gail Andler (Retired) of JAMS (the “Discovery Mediator”) to serve as a discovery mediator in this action. *See* Dkt. 646.

THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:

1. The Discovery Mediator shall work to facilitate communication between the parties to help resolve or narrow discovery disputes, without the need for judicial intervention.
2. The parties will comply in good faith with the Discovery Mediator’s requests and instructions, including, but not limited to, requests for conferences, information, or written submissions.
3. The Discovery Mediator will have the authority to (1) attend the parties’ regularly scheduled meet-and-confer conferences; (2) meet with a party *ex parte* at the party’s request; (3) suggest additional conferences (either between the parties or *ex parte* with the mediator) when appropriate and request the participation of relevant parties in those conferences; (4) request the submission of non-privileged information, formal and informal, by the parties to facilitate constructive and effective communication between the parties; (5) provide suggestions to the parties on how they may reach agreement to resolve or narrow their discovery disputes, including by suggesting that a party revise its position; and (6) attend Court hearings. The parties anticipate meeting and conferring with the assistance of the Discovery Mediator approximately once each week, in addition to any *ex parte* sessions with the Discovery Mediator.
4. The Discovery Mediator will have authority to confer with the Court *ex parte*, subject to any limitations set by the Court or set privately by the parties vis-à-vis the mediator.
5. Unless subsequently agreed to by the parties or ordered by the Court, the Discovery Mediator will work with the parties to resolve or narrow discovery disputes by

agreement. The mediator shall not rule on disputes or submit formal reports or recommendations to the Court in connection with the Court's adjudication of discovery disputes.

6. The parties will consider in good faith suggestions from the Discovery Mediator about how to resolve or narrow discovery disputes, including suggestions that a party's position is unreasonable or that the parties should compromise on a dispute rather than presenting the dispute to the Court.

7. The parties will not present a discovery dispute for adjudication by the Court without first (1) working in good faith with the opposing party and the Discovery Mediator to resolve or narrow the dispute by agreement and considering the Discovery Mediator's suggestions for doing so, and (2) having the Discovery Mediator confirm the parties are at an impasse.

8. The Discovery Mediator shall be bound by the Protective Order and all other orders entered in this action protecting confidential, sensitive, private, and privileged information. *See* Dkt. 122.

9. The parties will enter a private retainer agreement with the Discovery Mediator which will address, after considering the Court's suggestions: (1) what information and materials from mediation, if any, may be shared with the Court by the parties, (2) what information and materials from mediation, if any, the Discovery Mediator may share with the parties and/or the Court; and (3) how the parties will proportion and facilitate payment of the Discovery Mediator's fees.

10. The parties may amend this stipulation to alter the Discovery Mediators' role, based on the needs of the case.